



7020-02

INTERNATIONAL TRADE COMMISSION

Certain Network Devices, Related Software and Components Thereof (I)

Investigation No. 337-TA-944 (Enforcement Proceeding)

Commission Decision to Terminate the Enforcement Proceeding Based on Settlement

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to grant the private parties' joint motion to terminate the enforcement proceeding based on settlement. The enforcement proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Amanda Pitcher Fisherow, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2737. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the underlying investigation on January 27, 2015, based on a complaint filed on behalf of Cisco Systems, Inc. (“Cisco”) of San Jose, California. 80 *FR* 4314-15 (Jan. 27, 2015). The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain network devices, related software and components thereof by reason of infringement of certain claims of U.S. Patent No. 7,162,537 (“the ’537 patent”); U.S. Patent No. 8,356,296 (“the ’296 patent”); U.S. Patent No. 7,290,164 (“the ’164 patent”); U.S. Patent No. 7,340,597 (“the ’597 patent”); U.S. Patent No. 6,741,592 (“the ’592 patent”); and U.S. Patent No. 7,200,145 (“the ’145 patent”), and alleges that an industry in the United States exists as required by subsection (a)(2) of section 337. The ’296 patent was withdrawn from the investigation. The notice of investigation named Arista Networks, Inc. (“Arista”) of Santa Clara, California as the respondent. A Commission investigative attorney participated in the investigation.

On June 23, 2016, the Commission found that a Section 337 violation had occurred as to the ’537, ’592, and ’145 patents and therefore issued a limited exclusion order and a cease and desist order (“CDO”) against Arista. 81 *FR* 42375-76 (June 29, 2016).

On August 26, 2016, Cisco filed an enforcement complaint alleging that Arista had violated the June 23, 2016 CDO by reason of infringement of the ’537 patent. The Commission instituted this enforcement proceeding on October 4, 2016, based on Cisco’s complaint. 81 *FR* 68455 (Oct. 4, 2016).

On August 24, 2018, Cisco and Arista filed a joint motion to terminate the enforcement proceeding based on settlement. The motion includes both confidential and public versions of a binding term sheet, and the parties represent that there are no other agreements, written or oral,

express or implied between them concerning the subject matter of the proceeding. The parties also contend that the termination of the investigation would not adversely affect the public interest.

The Commission has determined to grant the joint motion. The Commission finds that the private parties have complied with the Commission's Rules, and that termination of the enforcement proceeding would not adversely affect the public interest. The proceeding is terminated.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in Part 210 of the Commission's Rules of Practice and Procedure, 19 CFR Part 210.

By order of the Commission.

Lisa Barton
Secretary to the Commission

Issued: September 17, 2018
[FR Doc. 2018-20473 Filed: 9/19/2018 8:45 am; Publication Date: 9/20/2018]